

CALENDAR ITEM

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A 34

08/14/02

W30121, W25855, W25856
PRC 7509.2 and PRC 7512.2

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M. Hays
C. Oggins

**THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT, THE
ISSUANCE OF TWO GENERAL LEASES-RIGHT OF WAY USE, AND THE
ASSIGNMENT IN THE GENERAL PARTNERSHIP OF TWO GENERAL LEASES-
RIGHT OF WAY USE**

APPLICANT/LESSEE:

Kern River Gas Transmission Company

ASSIGNORS/PARTNERS:

Kern River Corporation
Williams Western Pipeline Company

ASSIGNEES/PARTNERS:

KR Acquisition 1, LLC
KR Acquisition 2, LLC

AREA, LAND TYPE, AND LOCATION:

One parcel of State school land located in Section 36, T14N, R6E, SBM and one
parcel of State school land located in Section 16, T17N, R14E, SBM, San
Bernardino County.

EXISTING AUTHORIZED USE:

Use and maintenance of an existing 36-inch diameter natural gas pipeline for the
transport of natural gas for a term of 30 years, beginning March 7, 1991.

PROPOSED AUTHORIZED USE:

Construction, use and maintenance of a 36-inch diameter steel natural gas
pipeline that will be used for transporting natural gas and the temporary use of a
construction work area.

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PROPOSED LEASE TERMS:

19 years, beginning August 1, 2002.

PROPOSED CONSIDERATION:

\$3,384 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease, and \$1,000 for the temporary construction work area. (W 25855)

\$3,826 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease, and \$1,000 for the temporary construction work area. (W 25856)

PROPOSED SPECIFIC LEASE PROVISIONS:

Insurance for each Lease:

General Liability – Each Occurrence \$ 1,000,000

General Aggregate \$ 2,000,000

Pollution and Spill – Each Occurrence \$ 1,000,000

General Aggregate \$ 2,000,000

Personal Liability – \$ 1,000,000

Excess Liability – Each Occurrence \$10,000,000

General Aggregate \$10,000,000

Surety Bond for each Lease - \$ 50,000

Construction Performance Bond
for each Lease - \$ 450,000

Construction Phase Mitigation
Monitoring Bond - \$ 450,000

Reclamation Bond - \$ 1,334,000

Corporate Guarantee - MidAmerican Energy Holdings
Company to provide a Corporate
Guarantee for the performance of the
lease obligations of its subsidiary, Kern
River Gas Transmission

BACKGROUND INFORMATION:

On March 6, 1991, the California State Lands Commission (CSLC) approved the issuance of two General Leases - Right of Way Use (Lease Nos. PRC 7509.2 and PRC 7512.2) to Kern River Gas Transmission Company, a General Partnership (KRG T), for the construction, use and maintenance of a 36-inch natural gas pipeline that crosses two parcels of State school land in San

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Bernardino County. The existing natural gas pipeline is an interstate pipeline that begins in Wyoming and terminates in California.

PROPOSED PROJECT INFORMATION:

1. KRGT is now proposing to expand its existing natural gas transmission pipeline system from Opal, Wyoming to Mojave, California, and proposes to install approximately 717.5 miles of new pipeline through Wyoming, Utah, Nevada, and California. In California, 104 miles of 36-inch pipe would be installed and 82 miles of 42-inch would be installed. Additionally, underground pipeline loops, one underground pipeline lateral, three new natural gas compressor stations, modifications to existing compressor stations and existing meter stations, and other related facilities, are proposed to be constructed and operated in California.
2. Of the new pipeline proposed to be installed and operated in California, approximately 1.7 miles will cross two State school land parcels in San Bernardino County that are under the jurisdiction of the CSLC.
3. On July 27, 2001, KRGT submitted an application to the CSLC for the proposed Kern River Expansion Project that involves the two school land parcels.
4. KRGT has the right to use the lands that adjoin the Lease Premises.
5. The proposed project would provide an additional 885,626 dekatherms per day of natural gas transportation capacity from Central Rocky Mountain gas supplies to the existing and proposed natural gas-fired power plants along the existing KRGT system. KRGT anticipates that over 95 percent of the natural gas capacity will be used for delivery points in California to serve existing or new power generation markets.

SAFETY INFORMATION:

1. Transportation of natural gas by pipeline involves some risk to the public in the event of an accident or release of gas with the greatest hazard being fire or explosion following a rupture. The pipeline will be designed, constructed, inspected, tested, operated, and maintained to meet or exceed, U. S. Department of Transportation (DOT) construction and safety standards outlined in Title 49 Code of Federal Regulations (CFR) Part 192, *Transportation and Other Gas by Pipeline: Minimum Federal Safety Standards*. These regulations, which are intended to protect the public

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and to prevent natural gas facility accidents and failures, include specifics for material selection and qualification; odorization of gas; minimum design requirements; and protection of the pipeline from internal, external, and atmospheric corrosion. While primary focus of the federal standards is prevention of accidents, the Applicant has in place safety related policies and procedures, an emergency response plan that would be coordinated and tested through drills and exercises, with local fire/police departments and emergency management agencies.

2. KRG T will incorporate current seismological engineering standards such as the *Guidelines for the Design of Buried Steel Pipe* (American Lifeline Alliance), *Guidelines for the Seismic Design of Oil and Gas Pipeline Systems* (American Society of Civil Engineers), and other recognized industry standards at all fault crossings and liquefaction potential zones in California.
3. Once constructed, the pipeline system will be operated and maintained in accordance with all applicable Federal and State regulations. KRG T will monitor and control the pipeline 24 hours per day via a centralized Gas Control Center located in Salt Lake City, Utah. Operation and maintenance workforce will be located in the KRG T district office in Las Vegas, Nevada.

ASSIGNMENT INFORMATION:

1. When the CSLC approved the issuance of the two Right of Way Leases to KRG T, the two general partners in KRG T were Kern River Corporation and Williams Western Pipeline Company. Each of the two general partners held a 50 percent interest in KRG T's General Partnership. Subsequently, Kern River Corporation assigned its 50 percent interest in the General Partnership to Kern River Acquisition and on March 27, 2002, each of the general partners assigned its respective 50 percent interest in the General Partnership for KRG T to KR Acquisition 1, LLC, and KR Acquisition 2, LLC.
2. Pursuant to the lease terms for both leases, any transfer of any interest in the General Partnership is deemed to be an assignment. Therefore, the assignment by the two general partners in the General Partnership to KR Acquisition 1, LLC, and KR Acquisition 2, LLC, requires the review and approval of the CSLC.

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3. Even though the interest in the General Partnership is being assigned, this assignment will not change the CSLC's Lessee. KRG T will remain as the CSLC's Lessee and will be responsible for complying with the terms and conditions of the leases for the new and existing natural gas pipeline systems. KRG T continues to operate as a general partnership with new general partners, KR Acquisition 1, LLC and KR Acquisition 2, LLC, under the umbrella of the parent company, MidAmerican Energy Holdings Company.

ENVIRONMENTAL INFORMATION:

1. The staffs of the Federal Energy Regulatory Commission (FERC) and the CSLC, joint federal and state lead agencies, have completed work on a joint Final Environmental Impact Statement /Environment Impact Report (FEIS/EIR). The FEIS/EIR was prepared as required by the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).
2. The FEIS/EIR includes a California Reclamation Plan that identifies the impacts to vegetation and outlines the mitigation measures necessary to achieve a successful reclamation of yucca, cactus and agave within the construction area of the pipeline on non-federal land in California. KRG T is required by the CSLC to provide a reclamation bond, in an amount of \$1,334,000, for a term of ten years to ensure that the California segment of the Reclamation Plan will be successfully completed.
3. On August 1, 2001, KRG T filed an application with the FERC for a Certificate of Public Convenience and Necessity for the Kern River 2003 Expansion Project. On July 17, 2002, the FERC issued its Certificate of Public Convenience and Necessity to KRG T.
4. On July 9, 2002, the United States Fish and Wildlife Service (Service) issued a Biological Opinion (BO) for the project (File No. 1-5-02-F-476), concluding that, "After reviewing the current status of the desert tortoise and the Utah prairie dog, the environmental baseline for the action area, the effects of the activities associated with the Kern River 2003 Expansion Project and the cumulative effects, it is the Service's biological opinion that the action, as proposed, is not likely to jeopardize the continued existence of the desert tortoise or Utah prairie dog, and is not likely to destroy or adversely modify designated critical habitat for the desert tortoise to the extent that it no longer serves as recovery areas. Because no critical

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habitat has been designated for the Utah prairie dog, no critical habitat will be destroyed or adversely modified.”

Staff of the CSLC and the California Department of Fish and Game (CDFG) has reviewed the BO. The CDFG will rely on the FEIS/EIR, in combination with the BO, to review and condition its permit to KRG T pursuant to Section 2081 of the Fish and Game Code. CDFG will monitor all future pipeline maintenance activity with rare, threatened, endangered species and species of concern and their habitats. The mitigation measures contained in the FEIS/EIR and the BO are contained in the Mitigation Monitoring Program for the proposed expansion project.

CEQA INFORMATION:

1. Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15025), the staff has prepared an EIR identified as CSLC EIR No. 710, State Clearinghouse No. 2001071035. Such EIR was prepared and circulated for public review pursuant to the provisions of the CEQA. A Mitigation Monitoring Program has been prepared in conformance with the provisions of the CEQA (Public Resource Code section 21081.6), is contained in Exhibit D, and incorporated as part of the proposed leases.
2. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15091) are contained in Exhibit C, attached hereto.
3. A Statement of Overriding Considerations regarding the pipeline’s significant remaining impact to special concern vegetation communities (yucca, cactus and agave communities), made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093) is contained in Exhibit E, attached hereto.
4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff’s consultation with the persons nominating such lands and through the CEQA review process, it is the staff’s opinion that the project, as proposed, is consistent with its use classification.

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APPROVALS OBTAINED:

Federal Energy Regulatory Commission

FURTHER APPROVALS REQUIRED:

United States Department of Agriculture, Forest Service
United States Department of the Air Force, Edwards Air Force Base
United States Department of the Interior, Bureau of Land Management
United States Fish and Wildlife Service
United States Environmental Protection Agency
United State Army Corps of Engineers
United States Department of the Treasury, Bureau of Alcohol, Tobacco, Firearms
California Department of Fish and Game
California Department of Transportation, District 8, District 6
California State Water Quality Control Board
California State Historic Preservation Office
Lahontan River Basin Regional Water Quality Control Board
Mojave Desert Air Quality Management District
San Bernardino County Flood Control District
San Bernardino County Franchise Authority Special District Department
Kern County Road Department

EXHIBITS:

- A. Site Map W25855/PRC 7509.2
- B. Site Map W25856/PRC 7512.2
- C. CEQA Findings
- D. Mitigation Monitoring Program
- E. Statement of Overriding Considerations

PERMIT STREAMLINING ACT DEADLINE:

November 22, 2002

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

CERTIFY THAT AN EIR, NO. 710, STATE CLEARINGHOUSE NO. 2001071035, WAS PREPARED FOR THIS PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA, THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED

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THEREIN AND THAT THE EIR REFLECTS THE COMMISSION'S INDEPENDENT JUDGEMENT AND ANALYSIS.

ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15091, AS CONTAINED IN EXHIBIT C, ATTACHED HERETO.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN EXHIBIT D, ATTACHED HERETO.

ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS, AS CONTAINED IN EXHIBIT E, ATTACHED HERETO.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THE ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCE CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE ISSUANCE TO KERN RIVER GAS TRANSMISSION COMPANY, OF A GENERAL LEASE-RIGHT OF WAY USE, BEGINNING AUGUST 1, 2002, FOR A TERM OF 19 YEARS, FOR THE CONSTRUCTION, USE AND MAINTENANCE OF A 36-INCH DIAMETER STEEL PIPELINE THAT WILL TRANSPORT NATURAL GAS AND THE TEMPORARY USE OF A CONSTRUCTION WORK AREA ON THE LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$3,384, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; AND \$1,000 FOR THE AREA THAT WILL BE USED TEMPORARILY DURING THE CONSTRUCTION PHASE OF THE PROJECT; GENERAL LIABILITY INSURANCE COVERAGE OF NO LESS THAN \$1,000,000 PER OCCURRENCE WITH A GENERAL AGGREGATE OF NO LESS THAN \$2,000,000; SPILL AND POLLUTION INSURANCE OF NO LESS THAN \$1,000,000 PER OCCURRENCE WITH A GENERAL AGGREGATE OF NO LESS THAN \$2,000,000; PERSONAL LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000; EXCESS GENERAL LIABILITY INSURANCE OF NO LESS THAN \$10,000,000 PER OCCURRENCE WITH A GENERAL

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AGGREGATE OF NO LESS THAN \$10,000,000; SURETY BOND IN THE AMOUNT OF \$50,000; AND CONSTRUCTION PERFORMANCE BOND IN THE AMOUNT OF \$450,000. (W25855)

2. AUTHORIZE ISSUANCE TO KERN RIVER GAS TRANSMISSION COMPANY, OF A GENERAL LEASE-RIGHT OF WAY USE, BEGINNING AUGUST 1, 2002, FOR A TERM OF 19 YEARS, FOR THE CONSTRUCTION, USE AND MAINTENANCE OF A 36-INCH DIAMETER STEEL PIPELINE THAT WILL TRANSPORT NATURAL GAS AND THE TEMPORARY USE OF A CONSTRUCTION WORK AREA ON THE LANDS SHOWN ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$3,826, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; AND \$1,000 FOR THE AREA THAT WILL BE USED TEMPORARILY DURING THE CONSTRUCTION PHASE OF THE PROJECT; GENERAL LIABILITY INSURANCE COVERAGE OF NO LESS THAN \$1,000,000 PER OCCURRENCE WITH A GENERAL AGGREGATE OF NO LESS THAN \$2,000,000; SPILL AND POLLUTION INSURANCE OF NO LESS THAN \$1,000,000 PER OCCURRENCE WITH A GENERAL AGGREGATE OF NO LESS THAN \$2,000,000; PERSONAL LIABILITY INSURANCE OF NO LESS THAN \$1,000,000; EXCESS GENERAL LIABILITY INSURANCE OF NO LESS THAN \$10,000,000 PER OCCURRENCE WITH A GENERAL AGGREGATE OF NO LESS THAN \$10,000,000; SURETY BOND IN THE AMOUNT OF \$50,000; CONSTRUCTION PERFORMANCE BOND IN THE AMOUNT OF \$450,000; CONSTRUCTION PHASE MITIGATION MONITORING BOND IN THE AMOUNT OF \$450,000; AND RECLAMATION BOND IN THE AMOUNT OF \$1,334,000. (W25856)
3. AUTHORIZE THE ASSIGNMENT OF WILLIAMS WESTERN PIPELINE COMPANY'S 50 PERCENT INTEREST AND KERN RIVER ACQUISITION CORPORATION'S 50 PERCENT INTEREST IN THE GENERAL PARTNERSHIP FOR KERN RIVER GAS TRANSMISSION COMPANY TO KERN RIVER ACQUISITION COMPANY 1, LLC, A GENERAL PARTNER AND KERN RIVER ACQUISITION COMPANY 2, LLC, A GENERAL PARTNER, LEASE NOS. PRC 7509.2 AND PRC 7512.2, EFFECTIVE AUGUST 1, 2002 ON THE LANDS AS SHOWN ON EXHIBIT A AND B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.